

On August 28, 2017, Plaintiff filed his Original Petition in the 160th Judicial District of Dallas County, Texas against Defendants. Liberty Mutual was served with a citation and a copy of Plaintiff's Original Petition on October 5, 2017 through its registered agent for service of process. Herishen was served with a citation and a copy of Plaintiff's Original Petition on October 17, 2017. Accordingly, this Notice of Removal is being filed within thirty (30) days of service of the Petition on Defendants and is thus timely filed under 28 U.S.C. § 1446(b). As explained below, removal is proper because there is complete diversity of citizenship between the parties, and it is apparent from the face of Plaintiff's Original Petition that the amount in controversy exceeds \$75,000.00.

II.

GROUND FOR REMOVAL

A. DIVERSITY OF CITIZENSHIP

Plaintiff is an individual domiciled in the State of Texas who owns the properties that are the subject of this lawsuit and who is the named insured under the applicable policy of insurance. Thus, for diversity purposes, Plaintiff is a citizen of Texas. Defendant Liberty Mutual Insurance Company is a corporation organized under the laws of the State of Massachusetts, with its principal place of business in Boston, Massachusetts. For diversity purposes, Liberty is a citizen of Massachusetts. Defendant Michael Herishen is an individual domiciled in the State of Missouri. *See* Plaintiff's Original Petition at ¶ 4. For diversity purposes, Herishen is a citizen of Missouri. Accordingly, there exists complete diversity of citizenship between Plaintiff and Defendants.

B. AMOUNT IN CONTROVERSY

Generally, the amount in controversy for purposes of establishing federal jurisdiction should be determined by the plaintiff's complaint. *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1411-12 (5th Cir. 1995). Here, it is apparent from the face of Plaintiff's Original Petition that its claims exceed \$75,000.00 because Plaintiff specifically pleads that he seeks monetary relief over \$1,000,000.00. *See* Plaintiff's Original Petition at ¶ 6.

In light of the above, removal of this action is proper under 28 U.S.C. § 1441(a). This is a civil action brought in state court and this Court has original jurisdiction over the subject matter pursuant to 28 U.S.C. § 1332(a). In addition, Plaintiff's citizenship is diverse from Defendants. Finally, as alleged in his petition, Plaintiff seeks to recover in excess of \$1,000,000.00 from Defendants. Therefore, the amount in controversy in this case exceeds \$75,000.00.

III.
COMPLIANCE WITH PROCEDURAL REQUIREMENTS

As required by Local Rule 81.1(a), filed concurrently with this Notice of Removal is a completed civil cover sheet, supplemental civil case cover sheet and a signed Certificate of Interested Persons that complies with Local Rule 3.1. Additionally, the following exhibits are attached:

- **EXHIBIT A** – Index of all documents filed in state court;
- **EXHIBIT B** – Register of Actions in the state court proceeding; and
- **EXHIBITS C-1 through C-8** – A copy of each document filed in the state court action.

Pursuant to Section 28 U.S.C. §1446(d), Defendants will give written notice of the filing of this Notice of Removal to all adverse parties promptly after the filing of same.

Pursuant to 28 U.S.C. §1446(d), Defendants will file a true and correct copy of this Notice of Removal with the District Clerk, Dallas County 160th Judicial District Court, Texas, promptly after filing of same.

IV.
REQUEST FOR RELIEF

Based on the foregoing, Defendants Liberty Mutual Insurance Company and Michael Herishen respectfully request that the above-styled action now pending in the 160th Judicial District Court of Dallas County, Texas be removed to the United States District Court for the Northern District of Texas, Dallas Division. Defendants further request all such other and further relief to which they are justly entitled.

Respectfully submitted,

/s/ Mark D. Tillman

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**ATTORNEYS FOR DEFENDANTS
LIBERTY MUTUAL INSURANCE
COMPANY AND MICHAEL HERISHEN**

CERTIFICATE OF SERVICE

In accordance with the FEDERAL RULES OF CIVIL PROCEDURE, on October 31, 2017, a true and correct copy of the above and foregoing instrument was served *via facsimile or electronic service* upon:

ATTORNEYS FOR PLAINTIFF

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/s/ Mark D. Tillman

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